

Joint Select Committee on Australia's Family Law System

Response by ADRAC

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Introduction

Before directly addressing the questions proposed in the terms of reference ADRAC would like to make some general comments about family law reform.

Firstly, it is important to understand the context facing the end users of our family law services. Separating families are experiencing a time of extreme stress and distress when they come into contact with the family law system. They are often in a volatile and vulnerable state due to the emotional impact of the breakdown of their intimate relationship. They are faced with imminent multiple losses on the financial, emotional and personal level and they are often in shock and turmoil and, as a consequence, they struggle to make rational decisions on a day to day basis, let alone make informed decisions about their future. Most importantly, many worry desperately for their children and the possibility of losing contact and connection with them. This vulnerable state is amplified by the all too frequent concurrent presence of multiple risk factors including family violence, mental health issues, and substance abuse which we know are more prevalent in the separating families and even more common in those who are in conflict—the very population that is in need of assistance. It is in this condition that separating parties seek help from the family law system.

It is also important to understand that when families seek help they are likely to be needing assistance across time. Family separation is rarely a single incident. Many separating families, particularly those with the responsibility to raise children, are experiencing enduring conflict. The very idea that a ‘resolution’ can be provided that somehow deals with the issues once and for all is naive and, in some instances, dangerous. Family dynamics change, and separating families encounter repeating and often unpredictable changes in their lives that require constant adjustment and renegotiation. Any system designed to assist these families must be low cost, responsive and nimble.

In the current system, separating families who are unable to come to agreement about the issues flowing from their separation themselves encounter a dispute resolution system that:

- can be outrageously expensive (at a time when they are facing crippling financial loss),
- that is bewilderingly complex,
- that is staggeringly slow even in parenting matters,

- that is potentially unsafe for those extracting themselves from violent relationships, and insensitive and unresponsive to pre-existing risk factors (family violence, child abuse, mental health issues and substance abuse)
- that is adversarial at its core, which invites them to compete with their ex-partner to minimise their multiple losses.

In summary, for many, the family law system is expensive, unsafe, slow, complex, harmful, undermining and inflammatory, with the result that it often exacerbates their pre-existing distress and conflict.

A simplistic and piecemeal solution will not resolve these shortcomings. Increasing the number of judges may address the unacceptable delays in adjudicated outcomes but will not resolve the safety, cost, complexity and inflammatory nature of the adversarial processes. Increasing resources to Family Dispute Resolution (FDR) services will not avoid separating families from being drawn into the vortex of adversarial processes.

Adversarialism focuses on competing positions rather than interests, pitting families against each other, with lawyers often acting as gladiators. In the current family law system, legal practitioners are a major gateway into the family dispute system. The lessons from other law reform processes suggest that the economic and vocational roles of the lawyer and other occupations dependent on the current system, must align their conduct and interests with the underlying goals and principles of a new and different family dispute system.

The dispute model should fit the inanimate common state of 'family' which must work cohesively for all members. No statement of policy or principle in family law legislation, however clear or strict, can overcome underlying systemic professional obligations. All those obligations are built on the adversarial system which pitches one client against another or, in this case, one family member against others. The interests of a family where there are children are greater than the interests of any constituent member, including the child.

ADRAC proposes that no change in this court-centric system can occur unless courts are taken from the functional or operational centre of the system. While ever they remain at the centre, adversarialism will remain the dominant mode of family dispute resolution. We suggest that first-resort family disputes be largely removed from the Courts in favour of other systems of dispute management conducted adjunctive of administrative systems of decision making.

All matters including parenting issues should be dealt with by non-adversarial systems. ADRAAC suggests that a means to these ends might lie in a three-level system. The first level would be a family support system with offices spread throughout the community and supporting online access to information. It would triage, counsel and provide appropriate ADR (Alternative Dispute Resolution) services such as facilitation (where no clear dispute has emerged but there is a need for advice or assistance) and mediation. This service would not make decisions. It would be a port of call for information, counselling and facilitative dispute resolution services. It could operate privately and commercially direct by government or both, in regulated, authorized parallel schemes.

The second tier would be submission of dispute to administrative decision-makers sitting alone or as a group possibly as a tribunal depending on the matter, and using informal techniques. Decisions could be made on the papers or where sought or needed, by representation in a hearing. In this way those with the need to present their narrative would have that opportunity. Ideally, such decision-makers would use an inquisitorial method that asked questions through an officer assisting the tribunal, to avoid disputants from being active adversaries against one another. The decision-maker may deal with the matter over time, using case managers, and would have the power to suggest or direct useful forms of ADR.

Built into this second tier would be a system of administrative decision-makers, with annexed conciliation services to which disputants would be referred prior to a determination. Determination would be preceded by informal hearings preferably conducted not adversarially by use of officers assisting who would take oral accounts in front of the decision-maker not unlike what occurs in an inquiry process that uses counsel assisting. In this way parties would be less openly in contest with one another and more drawn into a system that responds to the inquiry of another person.

Conciliators operating prior to hearing can be more robust and advisory than mediators or FDRP's at first instance. They can for example give indications as to the likely decision of a decision-maker. ADRAAC's research suggests that conciliation is an effective DR tool when associated with the potential for a future hearing or decision.

ADRAAC sees system navigators, case managers, family counsellors, legal advisors, inquisitorial systems, tribunals and ADR including conciliation and mediation, as the primary working tools of ordinary daily family dispute. All of that can be achieved with a lesser amount of adversarialism than is currently present.

ADRAAC sees the final tier as the Federal Circuit Court (as the specialist family court) hearing a limited range of matters, principally by way of review of prior administrative decisions. Hearings of this type could also be

conducted with a lower level of both formality and adversarialism. Costs could be controlled. Cases could be turned over speedily. As in any system, much would turn on the training, capability and resources available to the decision-makers and the court to undertake their work. Applications for review to the court should involve usual costs sanctions for failure to accept reasonable offers but should also be capable of application of the *Federal Proceedings (Costs) Act 1981*.

Finally, it must be recognised that despite the many criticisms of the Australian family law system and despite its obvious problems there are many highly skilled, ethical and dedicated professionals—lawyers, judges, FDRP’s, counsellors—who are working to deliver the best outcome they can for those needing assistance. The above condemnations of the current system must not be interpreted as a criticism of those who work within it. On the contrary, most are working hard to overcome the many ill effects of a system they find themselves caught in.

Addressing specific questions within the Terms of Reference, ADRAC has limited its submission to the specified matters within its Charter being:

e) **The effectiveness of the delivery of family law support services and family disputes resolution processes;**

System Proposed

ADRAC recommends that it is preferable in the case of family decision-making, that a non-judicial approach be taken from the outset. This would require that ADR be regarded as the primary DR process and that only when this is not successful or inappropriate, that family disputes be diverted to the next tier in the system.

For that small proportion of families who cannot benefit from DR services, these should be directed to a user-friendly administrative tribunal, and only where this is not appropriate, for a court determination. Progressing through all these steps (education, therapy, attempted ADR and administrative determination) would give a family the best opportunity for the cultural shift needed to protect children, take them out of the conflict, and maximize the opportunities for the family to make the essential decisions to allow them to move forward.

ADRAC proposes that a three tier be established. The first stage would involve access to an information, triage and DR services, including FDR, as a first stage. The second stage would involve a non-adversarial, administrative decision-making process supported by conciliation, and arbitration. Only in the third stage would there be a court where litigation and the adversarial processes would be available in a limited type

of matter or as a last resort. The fact that the matter has moved on to litigation should not preclude a judge from referring parties to DR if considered appropriate.

An effective triage is crucial to this proposal, to enable families to be assessed as early in the separation process as possible, to receive the support they need, and be referred to the most appropriate form of DR to meet the needs of their individual circumstances. An appropriate DR procedure could be used in any dispute at any stage of the dispute.

This triage process must be undertaken as soon as possible after a family has experienced separation and cannot make the decisions that flow from this without some assistance. The earlier a dispute is referred to DR, the more likely it is for the family to be considering interests rather than legal rights. Conversely, the closer the ADR process is to a court determination, the more likely it is to be considering a rights-based resolution. In this setting each family can be facilitated to be able to develop the necessary communication skills to understand what is required for mutual decision-making.

Community Awareness

ADRAC recommends that there be the dissemination of information to promote community awareness as to the range of DR processes available, and that this accord with the National Principles on the Resolution of Disputes developed by NADRAC:

1. People have a responsibility to take genuine steps to resolve or clarify disputes and should be supported to meet that responsibility.
2. Disputes should be resolved in the simplest and most cost effective way. Steps to resolve disputes including using ADR processes, wherever appropriate, should be made as early as possible and both before and throughout any court or tribunal proceedings.
3. People who attend a dispute resolution process should show their commitment to that process by listening to other views and by putting forward and considering options for resolution.
4. People in dispute should have access to, and seek out, information that enables them to choose suitable dispute resolution processes and informs them about what to expect from different processes and service providers.

5. People in dispute should aim to reach an agreement through dispute resolution processes. They should not be required or pressured to do so if they believe it would be unfair or unjust. If unable to resolve the dispute people should have access to courts and tribunals.
6. Effective, affordable and professional ADR services which meet acceptable standards should be readily available to people as a means of resolving their disputes.
7. Terms describing dispute resolution processes should be used consistently to enhance community understanding of, and confidence in, them.

Focus on self determination

ADRAC proposes that the family law system prioritise the need to promote self determination at all stages of the family law system by:

- Removing the focus on the court and the adversarial system as the centrepiece;
- Introducing a comprehensive triage system at all stages and not only at the tertiary stage;
- Actively promoting and channeling disputes to the appropriate FDR processes at each tier of the proposed system;
- Applying a rebuttable presumption that all families should be directed towards DR until and unless assessed as inappropriate by a specially trained and supported triage system.

This will enable parents to

- Build their capacity for joint decision-making in a facilitated process;
- Be assisted to communicate effectively as parents;
- Clarify what matters require consultation and those that do not and what decisions are expected to be made jointly;
- Develop guidelines tailored to meet the particular needs of each family;
- Have productive ongoing parental contact;
- Assist particularly in situations of ongoing and enduring conflict;
- Clarify how they will exchange important information about their children going forward.

This insight would significantly assist parents engaging in DR, seeking to retain power over their own decision-making, and keeping out of the court system. The clear provision of information (based on legal rights and entitlements and relevant social science) would facilitate reasonable and appropriate expectations for separated parents, maximise the opportunities for respectful and amicable agreements, and promote the best interests of the children.

ADRAC urges a greater use of DR and in particular, facilitation, conciliation, mediation, and short-form arbitration (such as Philadelphia Arbitration as used in the NSW District Courts in the 1990's).

Consistency of approach to all disputes

ADRAC recommends the need for consistency in the management of all disputes arising from a separation in FDR.

This approach should cover the triage and referral of all appropriate family disputes to FDR, including both parenting and financial matters. This would promote self determination of all issues arising from a separation, with appropriate disclosure and legal and other supports where required. A review of the Certificate process would be recommended to ensure timely and efficient transition for a family throughout the family law system where necessary.

ADRAC stresses the need to align processes and approaches in both parenting and financial matters. This would provide clarity and consistency in dealing with all issues arising from separation. This would facilitate separating families to seek an holistic approach to their issues, with the likely result of minimising conflict and the need to remain in the family law system any longer than is necessary.

This proposal would require service providers to be qualified and experienced to deal with both parenting and financial matters, and for referrers to be appropriately trained for this purpose.

Full disclosure is essential to all attempts to resolve issues in dispute, including in the FDR process. Only if there is confidence that this has been provided can any agreements reached be long lasting and likely to prevent dissatisfaction and matters proceeding through the family law system to the third tier.

The obligations involving the provision of advice and information, and production of relevant documents, must extend to obligations of proper inquiry and frankness. These obligations should be continuous, and

apply throughout the FDR process, including to lawyers engaged in legally assisted FDR, as well as lawyers advising clients about FDR.

ADRAC recommends, in relation to FDR options, that consistent clear information and common understandings be developed as to the different types of FDR processes, and the different professional groups working in the Family Law system. This would result in similar knowledge, skills and abilities required, and support appropriate training and accreditation processes.

Vulnerable parties

ADRAC stresses the need to protect vulnerable parties and deal appropriately with discrepancies in knowledge and resources, with appropriate recognition of these factors as soon as possible, and referral to the relevant supports to suit the needs of each particular family member. This triage and assessment can only properly reflect the complex dynamics of family disputes where it is undertaken by an experienced and specifically trained professional. This assessment must be ongoing and the use of lawyer assisted FDR should not be undervalued but promoted actively in this context.

Safety is a foremost consideration in any DR process where violence or abuse is complained of, and direct exposure of parties to one another may have to be avoided or managed. Nevertheless, there seems to be a greater benefit in mediating or conciliating matters where there has been violence or abuse than in having it unattended or unaddressed in any way. There is some evidence that real benefits can accrue to all parties by controlled discussion with a third party intervention present, a carefully designed safety plan, and ongoing monitoring for suitability.

ADRAC promotes access to justice as a primary focus of the family law system at all times. If a separated family seeks self determination by FDR then this should be respected and facilitated wherever possible. An assessment as to unsuitability should be regarded as applying to the FDRP making that assessment only and at that stage, and not be binding on other FDR providers who might make a different assessment based on the type of service that they offer. However, concerns around potential systems abuse need to be factored into clinical decision making. It should be stressed that FDR is a flexible process that can be adapted to suit the needs of most situations and can have a significant benefit for families even if an agreement is not reached on all outstanding matters.

ADRAC would propose that the categories currently listed on the Certificate pursuant to s 60I of the *Family Law Act 1975* be expanded to consider the following:

- an indication that FDR has not been appropriate as there has not been full and frank disclosure by one party;
- an indication that the FDRP considers that there may be benefit for a family in further opportunities for FDR.

Any review of the certificate regime would also need to be accompanied by a corresponding review of the approach of the triage stage and/or the court at the third tier to the filing of a certificate. This could ensure that a certificate is more than a filing requirement and that the information included in the certificate has some benefit for the family law system.

Conciliation

ADRAC points to Conciliation as one process in particular that is likely to be of benefit in the family field and is currently underutilized.

Conciliation is a dispute resolution process conducted in the shadow of a determinative process and in accordance with particular considerations that bind the parties and the conciliator through applicable legislation. Conciliators working under this legislation are required to encourage parties to resolve a dispute within the confines of the policy of the legislation they are employed to propound.

Conciliation is used as a precursor to determination, whether by administrative or judicial means. It uses trained officers of the court or decision-maker to bring the parties together before a determination.

Benefits of both mediation and conciliation are that they allow parties to state their own narrative in their own terms in a way that satisfies the need for procedural justice or fairness, but without the costs and the evidentiary and other issues of curial hearing.

The more directive and robust approach of conciliation can be of great benefit to parties. This form of direction and advice assists parties who may otherwise be lost in the choice that is available to disputants in mediation. It must not pre-empt or bypass the active participation by the parties in the process.

Small property matters have been a problem in the existing system because of the cost of disputing/litigating them in an adversarial environment. Small property matters are often suitable for the close attention of small claims arbitration, mediation or conciliation.

Arbitration

Arbitration has real prospects in the family field for the following reasons:

- It empowers those families who are unable to reach an amicable decision, and provides flexibility for them to decide who, how and when they will have a decision imposed upon them;
- It gives scope to those persons who would prefer an outcome decided by a trustworthy third party;
- It gives scope to those persons who wish to tell their story, hear a former partner tell their story or, in general terms, have a hearing with or without the costs of affidavit preparation;
- The cost comparisons between an essentially oral short version of hearing and a full blown, adversarial document and affidavit-based contest if presented to the parties, is likely to be persuasive;
- It preserves privacy in ways that are not available in court hearings; and
- It retains the flexibility to choose whether or not participants require the services of an advocate in this process.

Please note that arbitration is limited arbitration by reg 67B of the *Family Law Regulations 1984* which provides as follows:

Prescribed requirements for arbitrator (Act s 10M)

For the definition of **arbitrator** in section 10M of the Act, a person meets the requirements for an arbitrator if:

(a) the person is a legal practitioner; and

(b) either:

(i) the person is accredited as a family law specialist by a State or Territory legal professional body; or

(ii) the person has practised as a legal practitioner for at least 5 years and at least 25% of the work done by the person in that time was in relation to family law matters; and

(c) the person has completed specialist arbitration training conducted by a tertiary institution or a professional association of arbitrators; and

(d) the person's name is included in a list, kept by the Law Council of Australia or by a body nominated by the Law Council of Australia, of legal practitioners who are prepared to provide arbitration services under the Act.

In light of the complex property valuation disputes before the Court, the requirement in reg 67B (b)(ii) that 'at least 25% of the work done by the person in that time was in relation to family law matter' is unhelpful. If retained, this provision removes many very competent arbitrators with a very wide commercial expertise (including subject matter experts of the assets held by the parties and former judges including High Court Judges) from providing binding arbitrations which would reduce the workload of the Court.

ADRAC recommends the development and enhancement of arbitration processes in family disputes.

Online DR

Although face-to-face processes are preferred, they are not always practical, and ADRAC supports the need for families in such situations to have access to high quality online and technological processes and facilities that will become suitable into the future.

Online approaches and processes are of paramount importance where a wide range of reasons prevent families from attending face-to-face processes.

ADRAC proposes that online DR would most likely occur in the first tier, but it could be used any time.

At present, online DR exists in the use of telephone communication through a telephone mediator but this could also be in the form of live meeting software, with or without video link, using an online mediator or in future, with artificial intelligence.

At present online capacity (whether telephone or computer) is most suited for the following situations:

- Small matters;
- Remote parties;
- Matters where parents or other carers, have poor relations but need to communicate—often for matters of child care arrangements such as pick-up, holidays and times to be spent with children; or,
- In the context of family violence or other protective concerns.

Family Inclusive DR

ADRAC supports the need for all children to be offered opportunities at each stage of the processes to express their views in a way that is physically, cognitively and emotionally safe, and so that these views can be heard and considered in the decision-making by adults. These opportunities need to be considered carefully to manage risks of over servicing or systems abuses, and to avoid reinforcing the trauma of family separation.

ADRAC recommends that child inclusive decision-making should always be considered and even encouraged.

This concept is based on the ability for families to co-operate to a certain degree. The following factors are relevant:

- Communication and cooperation are required from parents for ongoing family decisions affecting the children;
- All parties involved in a child inclusive process must understand that giving the child a voice in a process is not the same as requiring the child to make decisions;
- Self-determination by a family rather than external intervention or proxied-decision-making, must be a goal of benefit to all family members;
- The absence of family inclusive decision-making will inevitably mean that such decisions as are made may be the compromise of disgruntled parents unable to agree or by intervention and will exclude the voice of the children.

Family inclusive decision-making can occur if:

- The children are of an age and maturity that they can contribute;
- Parents are aware or are made aware of the need for their post-separation family to function in a way that best nurtures the children;
- It is noted that decision-making affecting the family must promote the interests of children;
- It is noted that the voices of the children need to be heard where possible and where the children wish to have a voice;
- It is noted that at the essence of family inclusive decision-making, is cooperation of all members of the family in the interests of the children;

- It is noted families may need assistance by way of a family counsellor or other third party to support parents to understand how to provide feedback to the child about the decisions they have made following a child inclusive process and to assist in early decision-making processes.

a) Any further avenues to improve the performance and monitoring of professionals involved in family law proceedings and the resolution of disputes, including agencies, family law practitioners, family law experts and report writers, the staff and judicial officers of the courts, and family dispute resolution practitioners;

Families are multidisciplinary, and people who separate seek assistance from a wide variety of professionals. Professionals working with such families need to be able to demonstrate core competencies across the breadth of their profession and with the depth of their specialties. Professional competencies inform and educate the public and set benchmarks for professional conduct, but these are meaningful only in the context of the relevant professional ethics. Professional ethics are meaningful only when they are responsive to feedback provided by the public, and therefore must be held accountable to the public they serve and exist, in a personal and social system.

ADRAC considers that the core competencies that can reasonably be expected of professionals in the family law system include the core competencies of their profession and their specialty. As there are a constellation of issues that can surface during family separation, ADRAC recommends all professionals working in the family law system to have core competencies in the areas that are directly relevant to separating families (note; please refer Foundation competencies/skills list below). ADRAC further considers that each set of core competencies has a complementary set of demonstrable ethics, in the form of codes of behaviour of all these professions working in the family law system.

ADRAC encourages each of the professions that work with people in the family law system to ensure that their professional core competencies include generic competencies such as conflict; cooperation; making a referral; clear communication; cross cultural contexts; diversity; disability; codes of ethics include self-care; professional, clinical supervision; reporting responsibilities.

Many of these professionals e.g. FDR Practitioners, have mechanisms and processes in place for ongoing professional development, regular skill review and assessment feedback, complaints processes, etc. This includes feedback mechanisms for compliments, concerns and complaints from clients, colleagues and others. Not-for-profit organizations receiving funding for providing these FDR services have compliance requirements to ensure these mechanisms are in place and are utilized. ADRAC recommends that these

systems are ongoing. It is imperative that complaints processes are accessible, affordable, transparent and timely to ensure clients have the opportunity to raise concerns and have these addressed.

By way of example, a professional who conducts Family Assessments and Reporting can reasonably be expected to consistently demonstrate their professional core competencies while maintaining each of their codes of behaviour. The core competencies of their profession, which may be counselling psychology ([Competencies](#) of Australian Counselling Psychologists); the core competencies of their specialties, which may be infant mental health ([AAIMHI](#) [Australian Association for Infant Mental Health Inc] WA Competency Guidelines) and Report Writing (Australian [Standards](#) of Practice for Family Assessments and Reporting); competencies regarding [families](#) and children, and separation competencies regarding families and children when family violence is a factor (Relevant competencies of relevant units from the Graduate Diploma of Family Dispute [Resolution](#) CHCDFV013).

The family law system needs to see the individual child, parents, families and communities affected by relationship change and family reconfiguration. Working with separating families requires a focus on the relationships aspects—seeing the individual within their world and having knowledge of what is significant in and to their lives. Professionals working within this field, require high levels of competence.

Foundation competencies/skills

The foundation (and common) competencies need to include the following knowledge and skills:

Micro-skills

- High level communication skills and interpersonal skills.

The brain and stress

- Impact of stress—on adults and children—the impact of stress on the brain and on children’s development.
- Insights from neuroscience and the impact of conflict.

Conflict

- The effects of conflict/the impact on adults and children, and on children’s development.
- An understanding of grief and loss and the impact on adults and children.

Separation and the family

- An understanding of the separation process.
- The impact of separation on adults and children.
- Children's and adult's responses to separation.
- Family, couple and extended family dynamics.
- Developing an awareness and understanding of family of origin and its importance.
- Developing an awareness of the wider kinship networks and their importance
- Child development: ages, stages.
- Working with a child focused approach.
- Children's development stages and their capacity for various parenting arrangements.
- Issues of grief and loss, separation anxiety and trauma for children.

Family Violence, power and control and safety

- Understanding the nature and dynamics of Family Violence and child sexual abuse and the impact on children.
- Understanding how the family law system can be used to continue and perpetuate abuse.
- Understanding power and control.
- Recognising and responding appropriately to Family Violence—understanding different dimensions and presentations of Family Violence—emotional, verbal, physical, financial, and spiritual and how this may present differently in different families and communities.
- The impact of family violence on adults, children and whole family unit and wider system and community.
- Managing family violence screening and risk assessment processes.
- Assessment processes that focus on safety, capacity.
- Identifying risk, including family violence and suicide, understanding suicidality.
- Risk assessments for mental health, substance abuse (drug and alcohol, gambling).
- Supporting safety of vulnerable parties.
- Understanding Suicide and suicide assessment.
- Understanding child abuse.

Trauma

- Understanding trauma, the impact of trauma and its different presentations.
- Trauma informed practices – safety, transparency.

Diversity

- Recognising and valuing diversity. This includes an appreciation for:
 - Family diversity – different family units
 - Cultural humility (rather than competency which assumes an end point or capacity to attain mastery)
- This relates to (and this is not an exhaustive list)
 - Aboriginal and Torres Strait Islander kinship systems and child rearing practices, indigenous, First peoples
 - Culturally and linguistically diverse communities
 - LGBTQIQ+, questions around sex and gender, and family formation
 - Parents and children with disability
- This also needs to address:
 - Their narrative, history, and trauma stories
 - The different presentations of family violence in different communities
 - An understanding of the experiences and access to justice barriers

High conflict

- What high conflict looks like and its impact on adults and children.

Professional Self care

- Understanding of what debriefing is and how to do it.
- How to use supervision processes.
- How to ensure self-care and make use of Support processes.

Ethics

- Knowledge of ethics and ethical practice in family law.

Intersections between systems

- Knowledge of the Intersection between the child protection, Family Law and Family Violence systems and legislation

Other factors

- Understanding substance abuse, mental health issues.

There needs to be an initial demonstration or assessment of the foundation knowledge and skills for family law professionals that they have attained these competencies. Furthermore, the maintenance and upkeep of these require regular review, training and updating to ensure skills and knowledge remain developing, accessible, honed and maintains currency.

ADRAC considers that there is a need for a cohesive education component of universities or other suitable tertiary institutions (possibly at faculty level), that train family practitioners drawing together training and work in family-related fields that are currently spread across numerous disciplines such as psychology, counselling, law and child welfare. This could occur perhaps initially at post-graduate level. Greater dialogue and a more cohesive approach to family work among those who work in the field would improve multi-disciplinary understanding of family issues and improve research potentials.

Complaints

ADRAC recommends the active implementation of complaints processes that are accessible, affordable, transparent and timely to ensure clients have the opportunity to raise concerns and have these addressed. These processes need to assess the nature of the complaint and be directed into the appropriate process. Many professionals are required to have complaints processes in place. Having clear guidelines about these and prioritising the above will enable clients to have a voice into what they will find helpful. ADRAC recommends having a complaints process that is guided by interests based principles in a system that parallels the above ADRAC recommendations, i.e. the three tier Family law system and focuses on trying to resolve matters early.

Conclusion

In the introduction to this submission, ADPAC refers to concerns about the fundamental problem of applying an adversarial system to the family separation context. ADPAC considers that even when professionals are engaging in ethical practice, they may unwittingly exacerbate conflict due to the adversarial environment in which they operate and to which they may feel obliged. Of course, those who act in a cavalier manner without any concern for the impact upon the wider family system, particularly that of the children involved, can do great and permanent harm. ADPAC believes this can be properly managed only when a cooperative, constructive process is the core of the family law system.